# PROPOSED DECISION

Agenda ID # 13434 Ratesetting

<b>.</b>		
Decision		
Decision		

#### BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of 2013-2014 Energy Efficiency Programs and Budget (U39M).	Application 12-07-001 (Filed July 2, 2012)
And Related Matters.	Application 12-07-002 Application 12-07-003 Application 12-07-004

# DECISION GRANTING COMPENSATION TO THE GREENLINING INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-11-015

Claimant: The Greenlining Institute	For contribution to Decision (D.) 12-11-015	
Claimed (\$): \$26,580.50	<b>Awarded (\$):</b> 18,556.25 (30.2% reduction)	
Assigned Commissioner: Michael R. Peevey	Assigned Administrative Law Judge: Todd O. Edmister	

#### **PART I: PROCEDURAL ISSUES**

A. Brief	D.12-11-015 approves a portfolio of energy efficiency programs and budgets to be
Description	implemented in 2013 and 2014 by Pacific Gas and Electric Company, San Diego Gas &
of Decision:	Electric Company, Southern California Gas Company, and Southern California Edison
	Company (collectively, the utilities), as well as two regional energy networks (RENs)
	(San Francisco Bay Area Regional Energy Network and Southern California Regional
	Energy Network) and one community choice aggregator (CCA) (Marin Energy
	Authority (MEA)).

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# B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:<sup>1</sup>

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	August 16, 2012	Verified
2. Other Specified Date for NOI:		
3. Date NOI Filed:	September 17, 2012	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or cus	tomer-related status (§ 18	02(b)):
5. Based on ALJ ruling issued in proceeding number:	R.10-02-005	Verified
6. Date of ALJ ruling:	March 29, 2010	Verified
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of "significant fi	nancial hardship" (§ 1802	(g)):
9. Based on ALJ ruling issued in proceeding number:	A.12-07-001	Verified
10. Date of ALJ ruling:	January 4, 2013	Verified
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant fin	ancial hardship?	Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-11-015	Verified
14. Date of Issuance of Final Order or Decision:	November 15, 2012	Verified
15. File date of compensation request:	January 14, 2012	Verified
16. Was the request for compensation timely?		Yes

<sup>&</sup>lt;sup>1</sup> This and other statutory references are to California Public Utilities' Code, unless specified otherwise.

# PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. Policies Providing Disadvantaged Workers with Increased Job Access and Quality Our initial review revealed that the applications were not compliant with D.12-05-015. The applications are deficient insofar as WE&T² programs fail to "address any and all recommendations" made in the Needs Assessment, namely targeted hiring and best practices for increasing the hire of disadvantaged workers. We recommended that inclusion strategies must be both "demand-pull" and "supply push." We recommended both high-road agreements on labor and targeted hire standards and workforce training programs that prepare disadvantaged workers for sustainable career pathways. We identified Direct Install and 3 <sup>rd</sup> party programs as reasonable for beginning implementation of these programs. Finally, we recommended that the RENs be held to the same standards on WE&T and found that So.Cal.REN offered a promising pilot program implementing the Needs Assessment Recommendations.	Response (August 3, 2012) at 3-7; Reply to Responses and Protests (August 13, 2012) at 2-6; Opening Comments on IOU Responses to Scoping Memo (September 14, 2012) at 2-5, 7-11; Reply Comments on IOU Responses to Scoping Memo (September 21, 2012) at 2-7; Opening Comments on Proposed Decision (PD) (October 29, 2012) at 2-6, 7-8, Reply Comments on PD (November 5,2012) at 3-4.	Accepted
The Commission's Decision (D.12-11-015) agreed that the consolidated applications do not meet the Commissions previous directives and fulfill the recommendations of the Needs Assessment and that they fall short of the Commission's expectations. It found that WE&T is in dire need of more focused attention.	D.12-11-015 at 3, 28, 85, 91-92, 93, Finding of Fact (FOF) 42, FOF 43, Conclusion of Law (LOL) 70, COL 75, COL 77, Ordering Paragraph (OP) 34, OP 35	

<sup>&</sup>lt;sup>2</sup> Workforce, education, and training.

The Commission agrees with us that the IOUs³ should focus on best practices for offering disadvantaged workers employment opportunities upon completion of training. The Decision requires that the IOUs hire an expert entity to help them comprehensively redesign WE&T programming. The Commission agrees that incorporating workforce diversity and inclusion goals into the contractor selection process is a worthy pursuit and encourages the utilities to work collaboratively with stakeholders to design and test strategies for achieving these goals. The Commission agrees that the IOUs should hire the expert no later than March 30, 2013. The Commission also provides a procedural way forward for the So.CalREN WE&T pilot.		
2. Expanding WE&T Data Collection  We agreed with the determination of the Commission in D.12-08-044 that the IOUs must make every effort to understand its workforce to adjust, support, empower and otherwise manage it in a way that yields the highest quality of service and outcomes. We recommended that the IOUs collect workforce data on the seven WE&T areas listed in D.12-08-04418 with respect to both the ESA <sup>4</sup> Program and the mainstream portfolio.	Response (August 3, 2012) at 7-8; Reply to Responses and Protests (August 13, 2012) at 4-5; Opening Comments on IOU Responses to Scoping Memo (September 14, 2012) at 5-7; Reply Comments on IOU Responses to Scoping Memo (September 21, 2012) at 8-9; Opening Comments on PD (October 29, 2012) at 6-7, Reply Comments on PD (November 5, 2012) at 4-5.	Accepted
The Decision agreed that the utilities should emulate, for their energy efficiency programs, the data collection protocols with respect to workforce initiatives recently adopted by the Commission for the lowincome programs in D.12-08-044. This will assist us in evaluating new proposals for energy -efficiency program	D.12-11-015 at 93, COL 76, OP 35.	

Investor-owned utilities.
 Energy Savings Assistance.

workforce efforts, based on a more		
robust set of data in the future. The		
utilities should be responsible for		
collecting and presenting initial data to the Commission, as suggested by		
Greenlining, by no later than May 1,		
2013		
3. Sector Strategies, Quality	Response (August 3, 2012) at	Accepted
Installation and Safety	8; Reply to Responses and	
Standards.	Protests (August 13, 2012) at	
We found that the applications and	5-6; Reply Comments on IOU	
PIPs <sup>5</sup> did not provide sufficient	Responses to Scoping Memo	
detail on sector strategy	(September 21, 2012) at 7-8, 9;	
implementation. We recommended		
that the IOUs detail their plan for		
developing sector strategies and the		
promotion of skill standards beyond		
the HVAC <sup>6</sup> pilot. They should		
include a budget that clearly shows		
the level of funding to be directed		
toward meeting statewide WE&T		
goals, as well as identify specific		
funding and programs that ensure		
minority, low-income, and		
disadvantaged communities are able		
to meaningfully participate in energy efficiency. We requested		
that the IOUs submit a detailed		
budget that breaks down		
expenditures by major category,		
stipulates whether these programs		
are sector strategies and whether		
they are directed to disadvantaged		
workers, and note which programs		
are co-funded and by whom.		
Finally, we noted that the IOUs		
failed to address the guidance		
decisions concerns surrounding		
health and safety hazards faced by	OD 26 See also sitetiess	
workers such as lead paint and	OP 36, <i>See also</i> citations above re IOUs failure to meet	
asbestos removal. We		
	expectations and hiring of	

Program Implementation Plans.
 Heating, ventilation, and air-conditioning.

recommended certifications to ensure that contractors are aware of and protect against hazards faced by workers and residents.	expert entity to fundamentally reform WE&T programs.	
D.12-11-015 requires the IOUs to update their program implementation plans for workforce, education, and training in their compliance filings to specify the funding for energy center classes, sector strategy efforts, training partnerships with community colleges and adult education, training partnerships with trade organizations, and training partnerships with communitybased organizations or other government agencies.		

# B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) <sup>7</sup> a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Correct
		To the extent that these are parties included in the official service list for this proceeding, the statement is correct; however, it is not clear if all of these parties shared similar positions with the Greenlining.

<sup>&</sup>lt;sup>7</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

Corporation (CHPC), Renewable Funding, LLC, Opower, Inc., Switch Lighting Company, Pacific Gas & Electric Company, EnerNOC, Inc., Synergy Companies, Institute of Heating & Air Conditioning Industries, Inc., California Building Performance Contractors Association (CBPCA), Association of Bay Area Governments/San Francisco Bay Area Regional Energy Network (SFBAREN), Black Economic Council, City of Oakland, SolarCity Corporation, Green For All, Ella Baker Center For Human Rights, City of Berkeley, The Greenlining Institute, Build It Green, Marin Energy Authority, Women's Energy Matters, Community Development Commission of Mendocino County, Five Star Bank, CRHMFA Homebuyers Fund, Sierra Business Council, Pulse Energy	See CPUC's comment II(B)(c) for instructions.
d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:  By the nature of its advocacy, Greenlining avoided duplication with other parties in this proceeding. While Greenlining worked closely with other organizations on workforce issues, Greenlining was the primary party advocating on the issues from the unique perspective of low-income and disadvantaged workers. However, Greenlining consistently maintains communication with consumer parties like DRA, TURN, NRDC, CILMT, The Ella Baker Center for Human Rights, Green For All, Brightline Defense Project (Brightline) and EHC to minimize duplication of effort. Finally, on a number of occasions Greenlining filed jointly with the Ella Baker Center For Human Rights and Green For All.	Greenlining Institute (Greenlining) had some duplication of efforts throughout this proceeding; as such, disallowances are reflected on page 9.

# C. Additional Comments on Part II:

#	Intervenor's Comment(s)	CPUC Discussion
II(A)	While D.12-07-015 did not expressly agree with Greenlining on all of its arguments, Greenlining submits that all of its arguments contributed substantially to the record in the proceeding, were germane to the issues at hand, and allowed the Commission to engage in a more informed deliberative process, ultimately resulting in a more thoroughly-considered decision. As such, Greenlining submits that it has merited compensation on the arguments that were not adopted in the Decision, in addition to those that were.	The Commission accepts this assertion.

#### PART III: REASONABLENESS OF REQUESTED COMPENSATION

#### A. General Claim of Reasonableness (§§ 1801 & 1806):

#### a. Intervenor's claim of cost reasonableness:

The Decision directs implementation of Greenlining's proposed policies. Based on Greenlining's recommendations, the Decision orders the hiring of a consultant to comprehensively redesign WE&T programming in advance of the next program cycle. As such, it is difficult to quantify the benefits that will result from Greenlining's advocacy at this time. The ongoing data collection will inform the Commission, the utilities, and consumer advocates on the extent to which investing in a "high-road" energy efficiency market will provide better careers for disadvantaged workers and better services and increased energy savings for low-to-moderate income customers. The information will allow all stakeholders to modify programs in the transition period and subsequent program cycles, to achieve greater savings for customers and better wages for workers.

Given the size of the customer base – low-income and disadvantaged workers – that stand to benefit from Greenlining's advocacy in this proceeding, even if the benefit is only \$1 a year for each customer, the total benefits will vastly exceed Greenlining's modest costs of participation.

#### **CPUC Verified**

With the reductions and adjustments adopted in this decision, the claim is reasonable

#### b. Reasonableness of Hours Claimed.

Greenlining's hours are reasonable given the massive scope of this proceeding.

Greenlining focused only on the issues that related directly to its constituency, and did not duplicate the efforts of any other party in doing so. This high level of inter-party coordination required additional time for phone calls and meetings with other parties. These coordination efforts also allowed Greenlining to jointly file with other parties, thereby reducing the duplication of efforts.

Finally, Greenlining made every effort to divide labor internally and create efficiencies in workload. Ryan Young, functioning as lead attorney, was largely responsible for management functions and strategic direction, review and drafting of comments, and coordination between other parties. Phong Nguyen, functioning as a legal intern, was responsible for reviewing and summarizing the comments of other parties, substantive research, and assisting with the drafting of comments. While there will be inevitable overlap, this internal division of labor is common practice in the legal field. Limited overlap, such as in the drafting of comments, is especially appropriate in this instance as Ryan Young has more experience with Commission practice and procedure.

With the reductions and adjustments adopted in this decision, a number of the hours is reasonable.

c. Allocation of Hours by Issue								
	Issues							
Attorney	Α	В	С	D	Total			
R. Young	60.8	19.3	2.0	22.3	104.4			
P. Nguyen	9.6	4.9	0.0	8.8	23.3			
Total 70.4 24.2 2.0 31.1 127.7								
%	55.13%	18.95%	1.57%	24.35%	100.00%			

- A. Policies Providing Disadvantaged Workers With Increased Job Access and Quality
- B. Expanding WE&T Data Collection
- C. Sector Strategies, Quality Installation and Safety Standards
- D. General/Multiple Issues

# B. Specific Claim:\*

CLAIMED						(	CPUC AV	VARD
	ATTORNEY, EXPERT, AND ADVOCATE FEES							
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Ryan Young	2012	104.6	\$210	See Attachment B	\$21,966	87.7	\$175	\$15,347.50
Phong Nguyen	2012	23.3	\$130	See Attachment B	\$3,029	22.00	\$120	\$2,640.00
		Subtotal: \$24,995.00					Subtotal:	\$17,987.50
	IN	ITERVE	NOR C	OMPENSATION C	AIM PREPA	RATIO	N **	
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Ryan Young	2013	15.5	\$105	See Attachment B	\$1627.50	6.50	\$87.50	\$568.75
Subtotal:				\$1,627.50	S	Subtotal:	\$568.75	
	TOTAL REQUEST \$:				\$26,622.50	AV	TOTAL VARD \$:	\$18,556.25

<sup>\*</sup>We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

<sup>\*\*</sup>Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.

Attorney	Date Admitted to CA Bar	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Ryan Briscoe Young	December 16, 2010	274828	No

# C. CPUC Disallowances and Adjustments:

1. Disallowance for excessive hours.	Greenlining claims 21.50 hours preparing its response to the applications, of which 10.2 were spent on the initial review of the applications and documents submitted by the utilities in support of the applications and 11.3 on drafting the response. We find the requested hours excessive, and disallow 6.0 hours.
2. Disallowance for excessive hours and duplication of effort.	Greenlining claims 6.4 hours preparing its reply to responses to the applications, of which 2.5 hours were spent on the review of parties' protests and responses to the application and 3.9 hours – on drafting the reply. We reduce hours claimed for these tasks by 1.9 hours for excessiveness and duplication.
3. Disallowance for duplication of efforts.	We reduce Nguyen's requested hours by 1.3 for duplication issues surrounding Greenlining's opening comments on utility responses to the scoping memo.
4. Disallowance for excessive hours.	Greenlining claims 12.3 attorney hours and 3.2 legal intern hours for the preparation of reply comments on the scoping ruling. Because Young had the summary of the opening comments prepared by the legal intern, preparation of Greenlining's comments should have not taken 12.3 hours. As such, we reduce Young's hours by 5.8 hours regarding this issue.
5. Reply Comments on Proposed Decision of November 5, 2012.	The Greenlining claims 2.6 hours of the attorney's time and 6.90 hours of the legal intern's time spent preparing reply comments on the proposed decision. Pursuant to Rule 14.3, reply comments on the proposed decision "shall be limited to identifying misrepresentations of law, fact or condition of the record contained in the comments of other parties." The Greenlining's comments contain two paragraphs, at 3 and 4, conforming to these requirements and contributing to the decision. We intend to compensate the time needed to prepare the comments complying with Rule 14.3 and providing contribution to the decision; therefore, we adjust the requested attorney's hours by 1.0 hour.

<sup>&</sup>lt;sup>8</sup> See the provisions of §§ 1801 and 181.3(b), (d).

6. Disallowance for non-notice ex parte communication.	Greenlining's time records reflect an ex parte communication on October 2, 2012. Ex parte communications are subject to the mandatory reporting by the filing a notice of ex parte communication. No notice of the communication was filed. As such, we disallow 0.4 hours.
7. Disallowance for unproductive efforts.	The following time is disallowed for unproductive efforts: (1) 0.5 hours for reading responses to applications; and (2) 1.3 hours for briefing Chen and Truong on proceeding issues.
8. Disallowance for failure to document costs.	Greenlining requests 15.5 hours for the intervenor compensation claim preparation. However, Greenlining's time records support only 6.50 hours of work on preparing the Icomp claim. Thus, we adjust the claim to reflect the 6.5 hours recorded in Greenlining's time records.
9. Adoption of Phong Nguyen's hourly rate(s).	Greenlining requests an hourly rate of \$130 for its legal intern Nguyen. After comparing Nguyen's experience with the experience of other legal interns and summer associates who have set hourly rates by the Commission, 11 we adopt the rate of \$120 an hour for Nguyen.
10. Adoption of Ryan Young's hourly rate(s).	Greenlining requests the hourly rate of \$210 for its attorney Ryan Young. Since the claim was filed, the hourly rate of \$165 has been adopted for Young's <sup>12</sup> work in 2012. Under the provisions of Resolution ALJ-281, we are allowed to apply two 5% step increases within each rate range adopted in the resolution <sup>13</sup> . In D.13-06-021, in adopting the hourly rate for Young's work in the first half of 2012, the Commission granted the first step increase. Here, for Young's work during the second half of 2012, we apply the second such step increase to the previously adopted rate of \$165, and adopt the rate of \$175 <sup>14</sup> .

#### PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?	Yes

See the provisions of Rules 8.1, 8.2, and 8.3 of the Commission Rules of Practice and Procedure.
 Rule 8.4 of the Commission Rules of Practice and Procedure.
 Hourly rates adopted by the Commission can be found on the Intervenor Compensation Program's website at www.cpuc.ca.gov.

12 D.13-06-021 at 14.

Resolution ALJ-281 at 6. The Resolution is available at the Commission's website at <a href="https://www.cpuc.ca.gov">www.cpuc.ca.gov</a>.

All hourly rates are rounded to the nearest \$5.00.

#### FINDINGS OF FACT

- 1. The Greenlining Institute made a substantial contribution to D.12-11-015.
- 2. The requested hourly rates for The Greenlining Institute's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
- 3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
- 4. The total of reasonable compensation is \$18,556.25.

#### **CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

#### **ORDER**

- 1. The Greenlining Institute is awarded \$18,556.25.
- 2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company shall pay The Greenlining Institute their respective shares of the award, based on their California-jurisdictional electric and gas revenues for the 2012 calendar year, to reflect the year in which the proceeding leading to Decision 12-11-015 was primarily litigated. Payment of the award shall include interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning March 30, 2013, the 75<sup>th</sup> day after the filing of The Greenlining Institute's request, and continuing until full payment is made.
- 3. The comment period for today's decision is waived.

4.	This decision is effective today.
Date	d, at San Francisco, California

# **APPENDIX**

# **Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No			
<b>Contribution Decision(s):</b>	D1211015					
Proceeding(s):	A1207001 et. Al.					
Author:	ALJ Division					
Payer(s):	Pacific Gas & Electric Company, San Diego Gas & Electric Company,					
	Pacific Gas & Electric Company, San Diego Gas & Electric Company, Southern California Gas Company and Southern California Edison					
	Company					

# **Intervenor Information**

Intervenor	Claim	Amount	Amount	Multiplier?	Reason Change/Disallowance
	Date	Requested	Awarded		
The	01/14/2013	26,580.50	\$18,556.25	No	Excessive hours, duplication of
Greenlining					other parties' efforts,
Institute					unproductive efforts, tasks
					and/or hours not supported by
					the record, adjusted hourly rates.

# **Advocate Information**

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Ryan	Young	Attorney	The Greenlining Institute	\$210	2012	\$175
Phong	Nguyen	Legal Intern	The Greenlining Institute	\$130	2012	\$120

(END OF APPENDIX)